



2008 Decisions

Opinions of the United States Court of Appeals for the Third Circuit

3-17-2008

Perez v. USA

Follow this and additional works at: https://digitalcommons.law.villanova.edu/thirdcircuit_2008

Recommended Citation

"Perez v. USA" (2008). *2008 Decisions*. 1434.

https://digitalcommons.law.villanova.edu/thirdcircuit_2008/1434

This decision is brought to you for free and open access by the Opinions of the United States Court of Appeals for the Third Circuit at Villanova University Charles Widger School of Law Digital Repository. It has been accepted for inclusion in 2008 Decisions by an authorized administrator of Villanova University Charles Widger School of Law Digital Repository.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 07-2701

JUAN M. PEREZ,
Appellant

v.

UNITED STATES OF AMERICA

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil No. 06-cv-01508)
District Judge: Honorable Dennis M. Cavanaugh

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B)
or Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6
March 6, 2008

Before: AMBRO, FUENTES and JORDAN, Circuit Judges

(Opinion filed March 17, 2008)

OPINION

PER CURIAM

Juan M. Perez appeals from an order of the United States District Court for the District of New Jersey dismissing his civil action against the United States. For the foregoing reasons, we will summarily affirm.

Perez filed a complaint under the Federal Tort Claims Act (“FTCA”) claiming that Special Agents of the Secret Service took four pairs of prescription eyeglasses with other items they seized when they arrested him on an outstanding warrant. He sought return of the glasses by filing an administrative claim with the Secret Service, but the glasses were never returned. After Perez filed suit under the FTCA, the United States moved to dismiss the suit for lack of subject matter jurisdiction. It argued that the Secret Service agents were exempt from liability under the FTCA under 28 U.S.C. § 2680(c), which provides an exception to the government’s waiver of liability for “[a]ny claim arising in respect of . . . the detention of goods, merchandise, or other property by any law enforcement officer.” The District Court agreed that it lacked subject matter jurisdiction because the agents were exempt from the waiver of liability, and it dismissed the lawsuit. Perez filed this appeal.¹

Summary action is warranted when “no substantial question” is presented by the appeal or when subsequent precedent warrants such action. See 3d Cir. LAR 27.4, I.O.P. 10.6. In this instance, summary affirmance is entirely appropriate because the United States Supreme Court has recently held that the exception under § 2680(c) broadly applies to all law enforcement officers. See Ali v. Federal Bureau of Prisons, –S. Ct.–, No. 06-9130, 2008 WL 169359 (Jan. 22, 2008). Because Congress has not waived the

¹ At the United States’ request, we stayed the appeal pending the outcome of a United States Supreme Court case dealing with the exception from liability under 28 U.S.C. § 2680(c). See Ali v. Federal Bureau of Prisons, –S. Ct.–, No. 06-9130, 2008 WL 169359 (Jan. 22, 2008).

United States' sovereign immunity for Perez' claim, the District Court properly dismissed the lawsuit for lack of subject matter jurisdiction.

We will summarily affirm the order of the District Court.